"through flow resistance .... depends on the through flow of the fuel passing through the valve device". This is certainly true of the fixed throttle valve 30d of figure 1, but it is also true of the valve shown in figure 2. As the flow through a valve changes, certainly the resistence to its flow changes, and accordingly, claims 20, 21, and 25 do read on the elected species.

In both of the actions of the examiner, claims 1-2, 10-11, 18-20, and 23-24 have been rejected under 35 USC 102 as anticipated by Rembold et al (885). While the applicants assume this means DE 1 95 398 85, the applicants have never received any form from the examiner (neither an initialed 1449 nor an 892) that lists this reference as prior art. In both of the actions written by the examiner claims 12-13, 16, and 17 have been rejected under 35 USC 103 as unpatentable over Rembold. Again, it is assumed that the examiner meant the same German patent. However, in both of the actions, the examiner has rejected claims 3-6 under 35 USC 103 as unpatentable over Rembold (855) in view of Yoshihara. Applicant questions whether the Examiner means a different reference to Rembold?

The questions in the above paragraph become important when a close review of the action is taken.

In both of the Office actions, the examiner has rejected claim 1 under 35 USC 102 as anticipated by Rembold et al (885). This rejection clearly is in error. Claim 1 recites that "the first fuel pump (6) delivers the fuel into the fuel line

connection (10) with a delivery capacity that is changed as a function of an operation condition of the engine". A teaching of this feature cannot be found in Rembold et al (885). The examiner has pointed to figure 5 of Rembold et al, saying apparently that this figure teaches the claimed feature. Reading the reference, however, no such teaching can be found. Quite the contrary, the reference recites "The feed quantity of the first fuel pump 6 driven by the electric motor 8 is largely constant", a recitation which clearly indicates that the pump 6 is intended to pump at a constant quantity. At one point in the disclosure, Rembold et al say that "the resistance presented to the fuel on the compression side 6h determines the level of the feed pressure". Again, this is a recitation that the pump has a constant capacity, and the amount that the pump pumps depends on the pressure against which it must pump.

Page 1, line 21 through page 3, line 15 of the original specification clearly sets forth that the invention of this application is an improvement over that of Rembold et al, DE 195 39 885, and just what that improvement is. The specification goes on to recite the advantages of this invention over that of DE 195 39 885. It is the applicants' contention that the claims presently in the application recite the structure which allows this invention to obtain the recited advantages.

Claims 12, 13, 16, and 17 have been rejected under 35 USC 103 as unpatentable over Rembold. These claims depend from claim 1 and would be patentable for the same reasons since the first

pump of Rembold pumps fuel at a constant capacity. There is no teaching in Rembold that the first pump pumps fuel at a variable pumping capacity.

Claims 3-6 have been rejected under 35 USC 103 as unpatentable over Rembold in view of Yoshihara. The claims depend from claims 1 and 2 and are believed patentable over Rembold for the same reason. Yoshihara has been added for teaching a variable pumping speed. Applicants fail to find a teaching in Yoshihara of pumping fuel at an increased speed from the first pump. As set forth in Yoshihara col. 4, lines 63+, a pressure regulator 8 is provided to adjust the low pressure fuel to an adjusted predetermined pressure. Since the valve 8 adjusts the low pressure fuel to a predetermined pressure the speed of the pump is at a constant speed. Therefore claims 3-6 are believed to be patentable.

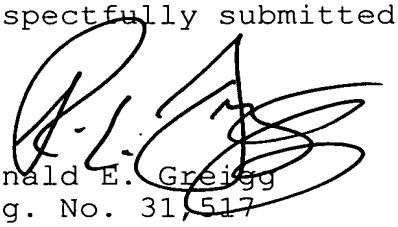
Claims 7-9 have been rejected under 35 USC 103a as unpatentable over Rembold as set forth in claim 1 further in view of Tuckey. Claims 7-9 are believed patentable over Rembold for the same reasons as set forth for claim 1. Tuckey has been added for teaching a pump which increases fuel flow due to temperature changes. Rembold has first and second pumps in which the second pump pumps a high pressure fuel to the engine. Since Tuckey has only one pump which pumps high pressure fuel to a fuel rail, one skilled in the art would substitute the high pressure pump of Tuckey for the high pressure pump of Rembold. This would not affect the fuel pumped by the first pump, therefore, Tuckey does

not add to Rembold for a teaching of the first pump.

It is therefore believed that Rembold alone or in combination with Yoshihara or Tuckey does not teach the claimed subject matter.

Reconsideration and allowance of the claims are courteously solicited.

Respectfully submitted,



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